IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 15TH JANUARY 2007 / 25TH PAUSHA 1928

R.C. Rev..No. 7 of 2007(C)

RCA.20/2004 of II ADDL. RENT CONTROL APPELLATE AUTORITY, TRIVANDRUM
RCP.29/2003 of RENT CONTROL COURT ,TRIVANDRUM
.....

REVN.PETITIONER/APPELLNT/RESPONDENT/TENANT

SASIDHARAN NAIR V., RESIDING AT
T.C.17/1746, MAIN ROAD, POOJAPPURA,
THIRUVANANTHAPURAM.

BY ADV. SRI.M.R.SUDHEENDRAN
SRI.S.MAHESH KUMAR

RESPONDENTS: RESPONFRNT/PETITIONER-LAND LORD

A.NOORJAHAN,
D/O. AISHA BEEVI, RESIDING AT T.C.17/1728,
MUKKONAMTHALA VEEDU, MAIN ROAD, POOJAPPURA.

BY ADV. SRI.R.S.KALKURA

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 15/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.A. ABDUL GAFOOR & K.R. UDAYABHANU, JJ

==========

R.C.R. NO. 7 OF 2007

==========

Dated this the 15th day of January 2007

ORDER

Udayabhanu, J

The Revision Petitioner/tenant has sought for setting aside the concurrent findings of courts below allowing the application of the respondent or landlord under section 11(3) of the Kerala Buildings (Lease and Rent Control) Act. The case of the respondent/landlord is that she is a deserted woman by her husband and she has got two minor children who are students and that she is not having any regular employment. The case set up herein is that the landlord is having a regular employment at the Corporation as sweeper. It was revealed from the evidence that she is only a casual employee on daily wages. It is the version of the Revision Petitioner that there is every likelihood that she will be regularised. No objective evidence in this regard was produced. She has sought for starting a petty shop in the premises where the Revision Petitioner is conducting a watch

repair shop. The case set up by the Revision Petitioner, that the area is not sufficient, cannot be upheld in view of the fact that he himself is conducting a watch repair shop in the premises. The shop premises is having, according to the revision petitioner, only an extent of 50 sq. feet. For a petty shop with limited investment that the landlord wants to start, we find that the above area would be sufficient. After all it is for the landlord to limit the extent of her business in the premises that she own. The protection of the second proviso to section 11(3) was also found against. In the circumstances, we find no reason to interfere with the findings of the courts below or to admit the revision petition.

2. The counsel has sought for time of one year to vacate the premises and the same was opposed. Considering the nature of the business run by the Revision petitioner in the premises we find that it would be sufficient to provide three months time to vacate the premises. In the result, the Revision Petitioner is directed to surrender vacant possession of the premises to the respondent/landlord within three months from today on condition

that he shall remit the entire arrears of rent if any and continue to remit the rent due in future and file an affidavit before the Execution court undertaking to surrender the premises on or before 16.04.2007.

The Revision Petition is dismissed in limine with the above directions.

K.A. ABDUL GAFOOR, JUDGE

K.R. UDAYABHANU, JUDGE.

RV